

### **REMARKS**

In the foregoing amendments, claims 1, 16, 20, 27 and 28 are amended; and claim 27. Claims 3-6, 9, 12, 15, 17, and 22-24 are cancelled. Claims 1, 2, 7, 8, 10, 11, 13, 14, 16, 18-21, and 25-28 are now pending in the present application.

The present application concerns a cooling tunnel for articles of candy. The cooling tunnel defines a treating region that is surrounded by an insulating plate and a cover. A bottom cooling plate is disposed in the treating region above the insulating plate. A plurality of distance elements are disposed in a free space between the bottom cooling plate and the insulating plate. The distance elements are arranged to support the insulating plate. An advantageous feature of the cooling tunnel is that the cooling tunnel can be easily opened by lifting the cover. Lifting the cover exposes the free space where the distance elements are distributed. The distance elements are distributed over the free space so that the free space can be easily accessed for maintenance, inspection, and cleaning.

The Office Action has relied upon *Mills* (U.S. Pat. No. 2,783,618) for allegedly disclosing a plurality of distance elements. Specifically, the Office Action states, at page 3, “Mills discloses a cooling tunnel comprising a conveyor belt 7; upper cooling units 8, 9 and bottom cooling unit 10; and unlabelled distance elements (Figures 3-4) for the purpose of supporting the cooling unit.” Applicant respectfully submits that the unlabelled distance elements of *Mills* are apparently part of the frame. Specifically, the alleged distance elements extend vertically from a frame member (1) to an unlabelled longitudinal member, and the alleged distance members are between the set of coils (8) and sidewall panels (3). (“Figure 4 is a perspective view of the tunnel with one sidewall removed.” Col. 1, lines 65 and 66.) Thus, the alleged distance elements are disposed on the lateral edges of the cooling tunnel.

#### **I. Response to 35 U.S.C. §103 Rejection**

Claims 1, 2, 7, 8, 10, 11, 13, 14, 16, 18-21, and 25-28 stand rejected under 35 U.S.C. §103. Specifically, claims 1, 2, 7, 8, and 16 –21 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Sakai* in view of *Sollich* (DE 23 22 918).

Claims 10, 11, 13, 14, 25, and 26 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Sakai* in view of *Sollich* and further in view of *Protze et al.* (DE 40 40 429 A1). Claims 12 and 15 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Sakai* in view of *Sollich* and further in view of *Mills* (U.S. Patent No. 2,783,618) and further in view of *Protze et al.* Claims 27 and 28 stand rejected under 35 U.S.C. §103 as allegedly being unpatentable over *Sakai* in view of *Sollich* and further in view of *Raskin* (U.S. Pat. No. 3,538,719) or further in view of *Pradel* (U.S. Pat. No. 3,141,500).

Applicant respectfully traverses these rejections for at least the reason that the combination of references, taken alone or in combination, do not disclose every feature of the independent claims from which these claims depend. Furthermore, the prior art does not provide any suggestion or motivation to modify *Sakai* in such a way as to read on the present claims. Even if such a suggestion were made, it would be clear, as mentioned below, that there would be no reasonable expectation of success of such a modification.

**A. Claims 1, 16 and 27**

Cancelled claims 3 and 22, each of which included the limitation of “a plurality of distance elements,” were rejected under 35 U.S.C. §103 as being unpatentable over *Mills*. Amended claims 1 and 16 each recite a cooling tunnel comprising, *inter alia*, “a plurality of distance elements, said **distance elements** being designed and arranged to **support said cooling plate in said treating region**, said distance elements being **arranged to be distributed over the width of the free space**.” (Emphasis Added.) Amended claim 27 recites a cooling tunnel comprising, *inter alia*, “a plurality of **distance elements extending between said insulating plate and said cooling plate**, wherein said at least one of said distance elements is disposed under said cooling plate.” (Emphasis Added.)

The combination of references, taken alone or in combination, do not disclose distance elements being arranged to support a cooling plate in a treating region. Specifically, as described hereinabove, the alleged distance elements of *Mills* are apparently part of *Mills*’ frame and are not distributed over a free space between a cooling plate and an insulation plate. There is no suggestion in teachings of *Sakai* and *Mills* to

dispose distance elements between the cooling plate and the insulation plate in a free space. The combination of *Sakai* and *Mills* apparently teaches supporting a cooling plate only at its lateral edges. The novel aspect of supporting the cooling plate over the width of the free space provides a new and improved result not anticipated or suggested or made obvious by the prior art.

An advantage of the inventions as claimed in claims 1 and 16 is that because the distance elements are distributed over the width of the free space to support the cooling plate (or as in claim 27, at least one of the distance elements is under the cooling plate), the cooling plate is better supported and stiffer. Undesired deflections and inclinations of the cooling plate due to external forces and/or thermal influences are substantially decreased by supporting the cooling plate over the width of the free space.

Another advantage of the inventions as claimed in claims 1, 16, and 27 is that the distance elements can be separately produced from any frame or housing such that the distance elements can be produced in a simple manner at high precision, which also results in a high precision of height of the free space between the insulating plate and the cooling plate.

**B. Dependent Claims**

Dependent claims 2, 7, 8, 10, 11, 13, 14, 18-21, 25, 26 and 28 are believed to be allowable for at least the reason that these claims depend from allowable independent claims 1, 16, and 27.

**II. Prior Art Made of Record**

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

**CONCLUSION**

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1, 2, 7, 8, 10, 11,

13, 14, 16, 18-21, and 25-28 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned at (770) 933-9500.

Respectfully submitted,



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